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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/347,714 07/03/99 YARBROUGH

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EXAMINER

HM12/0917

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KIM, V	
ART UNIT	PAPER NUMBER

1614

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DATE MAILED:

09/17/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/347,714

Applicant

Yarbrough et al

Examiner

Vickie Kim

Group Art Unit

1614



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-22 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 16-22 is/are allowed.

☒ Claim(s) 1-15 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

KEITH D. MacMILLAN
PRIMARY EXAMINER

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, **in such full, clear, concise, and exact terms** as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1, 10 and 13-15 rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1, 10 and 13-15 require "sodium lauroyl sarcominate" as a critical element in the instant claims. The term "sodium lauroyl sarcominate" had been substituted inconsistently with other terms such as "sodium lauroyl sarconinate" or "sodium laurouyl sarcosinide" in the same application. Moreover, the disclosure fails to state or teach how to find the information or description to clarify this inconsistent naming on these chemical compounds. Without this disclosure one of ordinary skill can not practice the invention without undue experimentation because of the number of operational parameters that would be involved in making the claimed subject matter and because any detailed information in the cited prior art have not been incorporated to the instant specification. Note that there isn't any priority document claimed to support such informations, neither.

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3. Claims 1-14 rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. A route of administration and therapeutic dosages are critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). A treatment without those said components is not enabling. Without this disclosure one of ordinary skill can not practice the invention without undue experimentation because of the number of operational parameters that would be involved in making the claimed subject matter.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 10 and 13-15 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: how and where to administer the said composition for the treatment.

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6. Claims 1, 10 and 13-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claims 1, 10 and 13-15 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: sodium lauryl sarcosinate as a main ingredient. While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). The term "sodium lauroyl sarcominate" in claims 1, 10 and 13-15, is used by the claim to mean "sodium lauryl sarcosinate," while the accepted meaning is "sodium lauryl sarcosinate."

Allowable Subject Matter

8. The subject matters of Claims 16-22 are allowable. However, claims 16-22 are objected, since claims 16-22 are dependent to the rejected claim 15.

9. Claim 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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10. The following is an examiner's statement of reasons for allowance: Kramer et al. teach a composition and a method for disinfecting, cleansing and treatment for exposure to toxic plants such as poison ivy, comprising surfactant as optional additives. However, it fails to teach combining ethoxylates and sodium lauryl sarcosinate result in synergistic effect and increase the efficacy against urushiol induced contact dermatitis. The claimed subject matter is patentably distinct over the prior references in the art.

The surfactants used in the patented compositions may be a nonionic surfactant such as alkyl phenol ethoxylate, an anionic surfactant such as sodium lauryl sulfate, a cationic surfactant, or mixtures thereof.

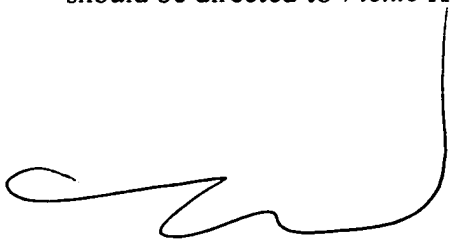
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

- 11. Claims 1-15 are rejected.
- 12. Claims 16-22 are objected.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Vickie Kim* whose telephone number is (703)305-1675.

A handwritten signature in black ink, consisting of a series of loops and a long vertical stroke extending upwards.

Vickie Kim, patent examiner

September 9, 1999